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BEFORE THE

Federal Communications Commission

WASHINGTON, D. C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Reexamination of the Comparative Standards
for Noncommercial Educational Applicants

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MM Docket No. 95-31

To: The Commission

COMMENTS

St. Gabriel Communications, Ltd. ("St. Gabriel"), an applicant for a new noncommercial educational station in Ponca, Nebraska (BPED-980318MD), herein submits its comments with respect to the Further Notice of Proposed Rule Making, FCC 98-269 ("Further Notice"), released in this proceeding on October 21, 1998.

St. Gabriel supports the use of a point system, as opposed to lotteries or comparative hearings, to choose between mutually exclusive applicants for noncommercial educational ("NCE") facilities. Use of a point system offers the promise of prompt resolution of the numerous NCE proceedings pending before the Commission. St. Gabriel offers these comments, however, regarding the points to be awarded:

Local Diversity. St. Gabriel strongly supports the award of points for local diversity. The Commission currently proposes to award two points. See Further Notice at ¶21(A). Given the importance of fostering localism and the corresponding importance of having the greatest diversity of local media voices practicable, even more points should be awarded under this category. St. Gabriel suggests five. In a situation in which one applicant already has a station serving the area, the public interest is much better served by awarding a strong preference to those competing applicants without a local media voice.

Fair Distribution of Service. In addition to the points proposed in the Further Notice at ¶21(B), St. Gabriel urges that an additional point be awarded to an applicant that would bring the first local noncommercial service to its proposed community of license. Thus, if an applicant would provide the first local service to its community, which inherently would be the first local noncommercial service to that community, the applicant would be awarded two points. If the community in question already was served by one or more commercial stations but not by a noncommercial station, the applicant still would be entitled to one point. Such a system would encourage an equitable distribution of NCE service to the greatest number of communities.

Local Educational Presence. The Commission has proposed giving an unspecified number of points to an established local organization, over new or distant organizations, upon showing that obtaining a license to operate a local station is important to achieving the local

organization's educational goals. Further Notice at ¶24. With respect to this proposed credit, the emphasis should be placed upon localism, rather than longevity.

A new local organization very well may have a strong need for a local NCE station to serve its educational goals. That organization should not be excluded from receiving credit simply because it is newly organized. Furthermore, drawing a distinction between "established" and "new" organizations would be difficult. How long must an organization be in existence before it would be considered "established"? It would be less difficult to determine whether a particular educational organization was "local." The Commission could establish a firm standard for determining whether an applicant is sufficiently "local" to be eligible for this credit. St. Gabriel suggests that in order to be eligible for a "local educational presence" credit, a majority of the applicant's governing board must reside within the 1.0 mV/m contour of the proposed station. Additionally, if certain members of the applicant's governing board have greater voting power than others, those holding the majority of the votes on the governing board would be required to reside within the 1.0 mV/m contour in order for the local educational presence credit to be awarded.

In order to avoid abuse or manipulation of this credit, the Commission could place a condition on any authorization awarded to an applicant claiming local educational presence credit. That condition would require that at all times a majority of the members of the station's governing board and, where voting power is not evenly distributed among governing board

members, persons who together hold a majority of the votes on the governing board reside within the station's 1.0 mV/m contour. This condition should remain in place for an extended period of time, such as five years after the initiation of program tests. St. Gabriel suggests that a minimum of two points be awarded under this criterion.

Representativeness Credit. Currently, the Commission proposes awarding a credit to NCE television applicants which demonstrate their leaders are significantly more representative of various elements of the community than those other applicants. Further Notice at ¶24. St. Gabriel believes that "representativeness credit" should be awarded to NCE radio applicants as well. Moreover, St. Gabriel suggests that points should be awarded under this criterion on the basis of whether the applicant satisfies the specific requirements set forth by the Commission and not on the basis of comparison with other applicants. For example, an applicant whose governing board included representatives from all of the elements of the local community traditionally considered¹ would be entitled to the maximum number of points awarded under this credit, regardless of whether other applicants were entitled to the same level of credit. An applicant whose governing board included representatives of fewer than all of the local community elements specified would receive partial credit under this criterion. St. Gabriel suggests that a maximum of three points be awarded under this criterion. For each specified element of the local

¹ See Further Notice at ¶24 n. 27 (e.g., businesses, civic groups, professions, religious groups, schools, and government).

Under St. Gabriel's proposal, each applicant would be considered on its own merits and the Commission would avoid pointless hair-splitting comparisons between applicants that so burdened the former comparative hearing processes.

Summary. St. Gabriel believes that adoption of its proposals will serve the public interest by putting particular emphasis on the diversification of media voices and localism. Diversification and localism are bedrock public interest factors that the Commission traditionally has considered in awarding broadcast authorizations. It should continue focusing on those attributes in choosing between mutually exclusive NCE applicants.

Respectfully submitted,

ST. GABRIEL COMMUNICATIONS, LTD.

By Father Harold Cooper
Father Harold Cooper, Its President

CERTIFICATE OF SERVICE

I, Pamela R. McKethan, hereby certify that on this 28th day of January, 1999, copies of the foregoing **COMMENTS** were sent via first-class, postage prepaid, U.S. mail, to the following:

American Family Association
P.O. Drawer 2440
Tupelo, Mississippi 38803



Pamela R. McKethan